



I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on October 7, 2004

Kathleen M. Ashton

Name

Signature

October 7, 2004

Date of Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Joseph et al.

Serial No.: 10/805,779

Filed: March 22, 2004

For: A Non-Dairy Whippable Food Product

RESPONSE

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to the Notice to File Missing Parts of Non-Provisional Application mailed August 10, 2004 (copy enclosed), herewith is the executed Declaration and the \$130.00 filing fee.

If any underpayment or overpayment has been made, please charge to Deposit Account No. 08-2442.

Respectfully submitted,

HODGSON RUSS LLP

By

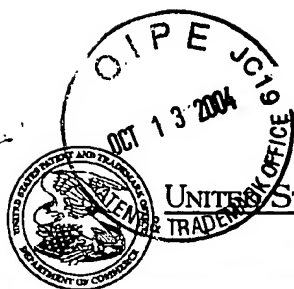
Ranjana Kadle
Ranjana Kadle, Reg. No. 40,041

One M&T Plaza, Suite 2000
Buffalo, New York 14203
(716) 848-1628
Dated: October 7, 2004

PTO/SB/E (10-03) Approved for use through 07/31/2006, OMB 0651-0032
FEE TRANSMITTAL
for FY 2004
 Effective 10/01/2003. Patent Fees are subject to annual revision.
 Applicant claims small entity status. See 37 CFR 1.27.

| | | |
|-------------------------|------|----------------|
| Application Number | | 10/805,779 |
| Filing Date | | March 22, 2004 |
| First Named Inventor | | Joseph et al. |
| Examiner Name | | |
| Group/Art Unit | | |
| TOTAL AMOUNT OF PAYMENT | (\$) | 130.00 |
| Attorney Docket Number | | 03278.0236 |

| METHOD OF PAYMENT (check all that apply) | | | | FEE CALCULATION (continued) | | | |
|--|--|--|--|--|----------|---------------------|----------|
| <input checked="" type="checkbox"/> Check <input type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> Other <input type="checkbox"/> None <input checked="" type="checkbox"/> Deposit Account: Deposit Account Number: <u>08-2442</u> Deposit Account Name: <u>Hodgson Russ LLP</u> The Director is hereby authorized to (check all that apply) <input type="checkbox"/> Charge fee(s) indicated below <input checked="" type="checkbox"/> Charge any fee deficiencies or credit any overpayments <input type="checkbox"/> Charge any additional fees during pendency of this application. <input type="checkbox"/> Charge fees indicated below, except for the filing fee to the above-identified deposit account | | | | 3. ADDITIONAL FEES | | | |
| | | | | Large Entity | | Small Entity | |
| | | | | Fee Code | Fee (\$) | Fee Code | Fee (\$) |
| | | | | 1051 | 130 | 2051 | 65 |
| | | | | Surcharge - late filing fee or oath | | | |
| | | | | 1052 | 50 | 2052 | 25 |
| | | | | Surcharge - late provisional filing fee or cover sheet | | | |
| | | | | 1053 | 130 | 1053 | 130 |
| | | | | Non-English specification | | | |
| | | | | 1812 | 2,520 | 1812 | 2,520 |
| | | | | For filing a request for <i>ex parte</i> reexamination | | | |
| | | | | 1804 | 920* | 1804 | 920* |
| | | | | Requesting Publication of SIR prior to Examiner Action | | | |
| | | | | 1805 | 1,840* | 1805 | 1,840* |
| | | | | Requesting Publication of SIR after Examiner Action | | | |
| | | | | 1251 | 110 | 2251 | 55 |
| | | | | Extension for reply within first month | | | |
| | | | | 1252 | 430 | 2252 | 215 |
| | | | | Extension for reply within second month | | | |
| | | | | 1253 | 980 | 2253 | 490 |
| | | | | Extension for reply within third month | | | |
| | | | | 1254 | 1,530 | 2254 | 765 |
| | | | | Extension for reply within fourth month | | | |
| | | | | 1255 | 2,080 | 2255 | 1,040 |
| | | | | Extension for reply within fifth month | | | |
| | | | | 1401 | 300 | 2401 | 150 |
| | | | | Notice of Appeal | | | |
| | | | | 1402 | 340 | 2402 | 170 |
| | | | | Filing a brief in support of an appeal | | | |
| | | | | 1403 | 300 | 2403 | 150 |
| | | | | Request for oral hearing | | | |
| | | | | 1451 | 1,510 | 1451 | 1,510 |
| | | | | Petition to institute a public use proceeding | | | |
| | | | | 1452 | 110 | 2452 | 55 |
| | | | | Petition to revive - unavoidable | | | |
| | | | | 1453 | 1,370 | 2453 | 685 |
| | | | | Petition to revive - unintentional | | | |
| | | | | 1501 | 1,370 | 2501 | 685 |
| | | | | 10 advance copies Utility issue fee (or reissue) | | | |
| | | | | 1502 | 490 | 2502 | 245 |
| | | | | Design issue fee | | | |
| | | | | 1503 | 660 | 2503 | 330 |
| | | | | Plant issue fee | | | |
| | | | | 1460 | 130 | 1460 | 130 |
| | | | | Petitions to the Commissioner | | | |
| | | | | 1807 | 50 | 1807 | 50 |
| | | | | Processing fee under 37 CFR 1.17(q) | | | |
| | | | | 1806 | 180 | 1806 | 180 |
| | | | | Submission of Information Disclosure Statement | | | |
| | | | | 8021 | 40 | 8021 | 40 |
| | | | | Recording each patent assignment per property (times number of properties) | | | |
| | | | | 1809 | 790 | 2809 | 395 |
| | | | | Filing a submission after final rejection(37 CFR 1.129(a)) | | | |
| | | | | 1810 | 790 | 2810 | 395 |
| | | | | For each add'l invention to be examined(37 CFR 1.129(b)) | | | |
| | | | | 1801 | 790 | 2801 | 395 |
| | | | | Request For Continued Examination (RCE) | | | |
| | | | | 1802 | 900 | 1802 | 900 |
| | | | | Request for Expedited Examination of a design application | | | |
| | | | | Other fee (specify) _____ | | | |
| | | | | *Reduced by basic filing fee paid | | | |
| | | | | SUBTOTAL (3) | | | |
| | | | | \$ 130 | | | |



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|------------------------|-----------------------|------------------------|
| 10/805,779 | 03/22/2004 | Andrew G. Fendinger | 03278.0236 |

CONFIRMATION NO. 9928

26712
 HODGSON RUSS LLP
 ONE M & T PLAZA
 SUITE 2000
 BUFFALO, NY 14203-2391

FORMALITIES LETTER



OC000000013493055

10/14/2004 HDEHESS1 00000050 10805779

Date Mailed: 08/10/2004

01 FC:1051

130.00 DP

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted***Items Required To Avoid Abandonment:**

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **\$130** for a Large Entity

- **\$130** Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

*A copy of this notice **MUST** be returned with the reply.*

Akale

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE